

**ORDINANCE
CITY OF WOODSTOCK, GEORGIA**

**AN ORDINANCE TO AMEND CHAPTER 18, BUILDINGS AND BUILDING REGULATIONS – ARTICLE II,
DIVISION 3. CONSTRUCTION BOARD OF ADJUSTMENT PROCEDURES OF THE WOODSTOCK CODE
OF ORDINANCES**

Whereas, the City of Woodstock, Georgia (hereinafter sometimes referred to as the "City") is a municipality duly formed and existing pursuant to Georgia Law; and

Whereas, the 1983 Constitution of the State of Georgia provides for the self-government of municipalities without the necessity of action by the General Assembly¹; and

Whereas, the City of Woodstock, Georgia, has the legislative power to adopt clearly reasonable ordinances, resolutions or regulations relating to its property, affairs and local government for which no provision has been made by general laws, and which are not inconsistent with the Constitution or any charter provision applicable thereto²; and

Whereas, the City Council of the City of Woodstock, Georgia desires to replace the existing **Chapter 18, Article II, Division 3 CONSTRUCTION BOARD OF ADJUSTMENT PROCEDURES** of the Woodstock Code of Ordinances with a new Division 3 as set forth herein;

NOW, THEREFORE, BE IT RESOLVED THAT THE COUNCIL ORDAINS, by the lawful authority vested in them as follows:

Section 1.

Chapter 18, Article II, Division 3 Construction Board of Adjustment Procedures of the Woodstock Code of Ordinances is hereby repealed in its entirety and a new **Chapter 18, Article II, Division 3 Construction Board of Adjustment Procedures** as more particularly set forth on Exhibit "A" attached hereto and made a part hereof by reference are hereby inserted in lieu thereof.

¹ Ga. Const. 1983, Article IX, Section II, Paragraph II provides in pertinent part as follows:

"The General Assembly may provide by law for the self-government of municipalities and to that end is expressly given the authority to delegate its power so that matters pertaining to the municipalities may be dealt with without the necessity of action by the General Assembly."

² O.C.G.A. §36-35-3(a) provides as follows:

"(a) The governing authority of each municipal corporation shall have legislative power to adopt clearly reasonable ordinances, resolutions or regulations relating to its property, affairs, and local government for which no provision has been made by general law and which are not inconsistent with the Constitution or any charter provision applicable hereto. Any such charter provision shall remain in force and effect until amended or repealed as provided in subsection (b) of this Code Section. This Code Section, however, shall not restrict the authority of the General Assembly, by general law, to define this home rule power further or to broaden, limit, or otherwise regulate the exercise thereof. The General Assembly shall not pass any local law to repeal, modify or supersede any action taken by a municipal governing authority under this Code section, except as authorized under Code Section 36-35-6."

Section 2.

The City Clerk is hereby authorized and directed to incorporate the provisions of the **new Chapter 18, Article II, Division 3 Construction Board of Adjustment Procedures** as set forth on Exhibit "A" attached hereto into the Woodstock Code of Ordinances, replacing the existing **Chapter 18, Article II, Division 3 Construction Board of Adjustment Procedures**.

Section 3.

Repeal of conflicting Ordinances. Any and all ordinances, resolutions, or regulations, or parts thereof, in conflict with this Ordinance are hereby repealed to the extent of such conflict.

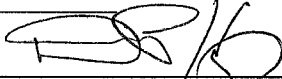
Severability. If any sentence, clause, part, paragraph, section, or provision of this Ordinance is declared by a court of competent jurisdiction to be invalid, the validity of the Ordinance as a whole or any other part hereof shall not be affected.

Effective Date. This Ordinance shall take effect immediately upon its adoption.

PASSED AND ADOPTED BY THE MAYOR AND COUNCIL OF THE CITY OF WOODSTOCK, GEORGIA, THIS 25 DAY OF August, 2014.

First Reading Date: 8-11-14

Second Reading Date: 8-25-14



DONNIE HENRIQUES,
MAYOR CITY OF WOODSTOCK,
GEORGIA



RHONDA L. PEZZELLO, CLERK
CITY OF WOODSTOCK

EXHIBIT "A"
CHAPTER 18, ARTICLE II, DIVISION 3 OF THE WOODSTOCK CODE OF ORDINANCES

DIVISION 3. CONSTRUCTION BOARD OF ADJUSTMENT PROCEDURES ^[3]

Sec. 18-81. Violations and penalties.

Sec. 18-82. Appointment.

Sec. 18-83. Membership and terms.

Sec. 18-84. Conflict of Interest

Sec. 18-85 Compensation

Sec. 18-86. Quorum and voting.

Sec. 18-87. Secretary of the board.

Sec. 18-88. Powers.

Sec. 18-89. Appeals.

Sec. 18-90. Variances.

Sec. 18-91. Conditions of the variance.

Sec. 18-92. Notice of appeal.

Sec. 18-93. Unsafe or dangerous buildings or service systems.

Sec. 18-94. Procedures of the board.

Sec. 18-81. Violations and penalties.

Any person, firm, corporation or agent who shall violate a provision of this division, or fails to comply therewith, or with any of the requirements thereof, or who shall erect, construct, alter, install, demolish or move any structure, electrical system, gas system, mechanical system or plumbing system, or has erected, constructed, altered, repaired, moved or demolished a building, structure, electrical system, gas system, mechanical system or plumbing system, in violation of a detailed statement or drawing submitted and permitted thereunder, shall be guilty of a misdemeanor. Each such person shall be considered guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this division is committed or continued. Upon conviction of any such violation, such person shall be punished within the limits and as provided by state law.

(Code 1989, § 8-1-4(g); Ord. No. 91-12-19, 12-19-1991; Ord. No. 00-02-22, 2-22-2000)

State law reference— Conflict of interest in zoning actions, O.C.G.A. § 36-67A-1 et seq.; Ethics and Efficiency in Government Act, O.C.G.A. § 28-11-1 et seq.; code of ethics and conflict of interest, O.C.G.A. § 45-10-1; open and public meetings, O.C.G.A. § 50-14-1 et seq.; repair, closing and demolition of dwellings unfit for human habitation, O.C.G.A. § 36-61-11; abatement of nuisances, O.C.G.A. § 41-2-1 et seq.

Sec. 18-82. Appointment.

There is established a board to be called the construction board of adjustment and appeals, which shall consist of seven members and two alternates. The board shall be appointed by the mayor and council.

(Code 1989, § 8-1-4(a); Ord. No. 91-12-19, 12-19-1991; Ord. No. 00-02-22, 2-22-2000; Ord. No. 04-04-13, 4-13-2004)

Sec. 18-83. Membership and terms.

- (a) The construction board of adjustment and appeals shall consist of seven members. Such board members should be composed of individuals who are residents of the city of Woodstock or employees of a business that is registered within the City of Woodstock. With knowledge and experience in the technical codes, and preferably include one Registered Architect, one Structural Engineer, one Fire Protection Engineer, one State Licensed General Contractor, one State Licensed Electrician or Electrical Engineer, one State Licensed Mechanical Contractor or Mechanical Engineer and one State Licensed Plumbing Contractor or Plumbing Engineer. In the event that one of the professionals mentioned above are not included on the active board, an individual shall be chosen based upon his or her qualifications by the Mayor and Council. A board member shall not act in a case in which he has a personal or financial interest.
- (b) Members shall be appointed for a term of four years, but shall continue to serve until reappointed or a replacement is named by the mayor and council. Vacancies shall be filled by appointment by the mayor and council. Continued absence (two consecutive absences) of any member from regular meetings of the board shall, at the discretion of the mayor and council, render any such member subject to immediate removal from office.

(Code 1989, § 8-1-4(b); Ord. No. 91-12-19, 12-19-1991; Ord. No. 00-02-22, 2-22-2000)

Sec. 18-84 Conflict of Interest.

If a board member has any interest in any matter which may result in a gain or loss to that board member, his immediate family by blood or by marriage, or to any individual, partnership or corporation with whom that member has had any regular business or contractual relationships within the previous 12 months, such member shall not participate in the consideration, discussion, questioning and voting on that particular matter before the board, nor shall the member take any action which may influence the vote of any other member. If the chairman has a conflict of interest, the vice-chairman shall preside over the meeting during consideration of that particular matter.

Sec. 18-85. Compensation.

The compensation of the construction board of adjustment and appeals shall be set at \$50.00 per meeting, to be paid only to those members who attend such meeting.

(Ord. No. 01-03-13, 3-13-2001)

Sec. 18-86. Quorum and voting.

A simple majority of the construction board of adjustment and appeals shall constitute a quorum. In varying any provision of this division, the affirmative vote of the majority present, but not less than four affirmative votes, shall be required. In modifying a decision of the building official or fire marshal, not less than four affirmative votes, but not less than a majority of the board, shall be required.

Any decision to be made involving the State Minimum Fire Safety Standards, must include the input and guidance from a Fire Protection Engineer. In the event that a Fire Protection Engineer is not a standing member of the board, a Fire Protection Engineer or Industrial Safety Professional can be brought on the board to provide guidance and input to the board.

(Code 1989, § 8-1-4(b); Ord. No. 91-12-19, 12-19-1991; Ord. No. 00-02-22, 2-22-2000)

Sec. 18-87. Secretary of the board.

The building official shall act as secretary of the construction board of adjustment and appeals and shall make a detailed record of all of its proceedings, which shall set forth the reasons for its decision, the vote of each member, the absence of a member and any failure of a member to vote.

(Code 1989, § 8-1-4(b); Ord. No. 91-12-19, 12-19-1991; Ord. No. 00-02-22, 2-22-2000)

Sec. 18-88. Powers.

The construction board of adjustments and appeals shall have the power to hear appeals of decisions and interpretations of the building official or fire marshal and consider variances of the technical codes. Nothing in this section shall authorize the construction board of adjustments and appeals to vary any requirements set forth in the zoning ordinance of the city.

(Code 1989, § 8-1-4(c); Ord. No. 91-12-19, 12-19-1991; Ord. No. 00-02-22, 2-22-2000)

Nothing in this section shall authorize the construction board of appeals to vary any of the requirements to any of the occupancy classifications or structures, as shown as exempted as set forth in O.C.G.A. 25-2-12 (a) (2).

Sec. 18-89 Appeals.

The owner of a building, structure or service system, or his duly authorized agent, may appeal a decision of the building official or Fire Marshal to the construction board of adjustments and appeals whenever any one of the following conditions are claimed to exist:

- (1) The building official or fire marshal rejected or refused to approve the mode or manner of construction proposed to be followed or materials to be used in the installation or alteration of a building.
- (2) The provisions of this division do not apply to this specific case.
- (3) An equally good or more desirable form of installation can be employed in any specific case.
- (4) The true intent and meaning of this division or any of the regulations under this division have been misconstrued or incorrectly interpreted.

(Code 1989, § 8-1-4(d); Ord. No. 91-12-19, 12-19-1991; Ord. No. 00-02-22, 2-22-2000)

Sec. 18-90. Variances.

The construction board of adjustments and appeals, when so appealed to and after a hearing, may vary the application of any provision of this division to any particular case when, in its opinion, the enforcement thereof would do manifest injustice and would be contrary to the spirit and purpose of this division or the technical codes or public interest, and also finds all of the following:

- (1) Special conditions and circumstances exist which are peculiar to the building, structure or service system involved and which are not applicable to others.
- (2) Special conditions and circumstances do not result from the action or inaction of the applicant.
- (3) Granting the variance requested will not confer on the applicant any special privilege that is denied by this division to other buildings, structures or service system.
- (4) The variance granted is the minimum variance that will make possible the reasonable use of the building, structure or service system.
- (5) The grant of the variance will be in harmony with the general intent and purpose of this division and will not be detrimental to the public health, safety and general welfare.

(Code 1989, § 8-1-4(d); Ord. No. 91-12-19, 12-19-1991; Ord. No. 00-02-22, 2-22-2000)

Sec. 18-91. Conditions of the variance.

In granting a variance as described in section 18-90, the construction board of adjustment and appeals may prescribe a reasonable time limit within which the action for which the variance is required shall be commenced or completed, or both. In addition, the board may prescribe appropriate conditions and safeguards in conformity with this division. Violation of the conditions of a variance shall be deemed a violation of this division.

(Code 1989, § 8-1-4(d); Ord. No. 91-12-19, 12-19-1991; Ord. No. 00-02-22, 2-22-2000)

Sec. 18-92. Notice of appeal.

Notice of an appeal of a decision of the building official or Fire Marshal shall be in writing and filed within 30 calendar days after the decision is rendered by the building official or the fire marshal. Appeals shall be a form acceptable to the building official or fire marshal of the city

(Code 1989, § 8-1-4(d); Ord. No. 91-12-19, 12-19-1991; Ord. No. 00-02-22, 2-22-2000)

Sec. 18-93. Unsafe or dangerous buildings or service systems.

In the case of a building, structure or service system which is unsafe, unsanitary or dangerous, the building official may, in his order, limit the time for appeals of a decision of the building official or fire marshal to a shorter period.

(Code 1989, § 8-1-4(d); Ord. No. 91-12-19, 12-19-1991; Ord. No. 00-02-22, 2-22-2000)

Sec. 18-94. Procedures of the board.

- (a) *Rules and regulations.* The construction board of adjustment and appeals shall establish rules and regulations for its own procedure not inconsistent with the provisions of this division. The board shall meet on call of the chairman. The board shall meet within 30 calendar days after a notice of appeal of a decision of the building official or fire marshal has been received.
- (b) *Decisions.* The construction board of adjustments and appeals shall, in every case, reach a decision without unreasonable or unnecessary delay. Each decision of the board shall also include the reasons for the decision. If a decision of the board reverses or modifies a refusal, order or disallowance of the building official or fire marshal or varies the application of any provision of this division, the building official shall immediately take action in accordance with such decision. Every decision shall be promptly filed in writing in the office of the building official and shall be open to public inspection. A certified copy of the decision shall be sent by mail or otherwise to the applicant and a copy shall be kept publicly posted in the office of the building official for two weeks after filing. Every decision of the board shall be final, subject to such remedy as any aggrieved party might have at law or in equity.

(Code 1989, § 8-1-4(d); Ord. No. 91-12-19, 12-19-1991; Ord. No. 00-02-22, 2-22-2000)